

EVIDENTIARY HEARING, COMMITTEE CONFERENCE
PRESIDING MEMBER'S PROPOSED DECISION

BEFORE THE
CALIFORNIA ENERGY RESOURCES CONSERVATION
AND DEVELOPMENT COMMISSION

In the Matter of:)
)
Application for Certification for) Docket No.
the Orange Grove Power Plant) 08-AFC-4
Project by Orange Grove Energy, LLC)
_____)

PALA MESA RESORT
SUN ROOM
2001 OLD HIGHWAY 395
FALLBROOK, CALIFORNIA 92028

MONDAY, MARCH 16, 2009

10:32 A.M.

Reported by:
Troy A. Ray
Contract No. 170-07-001

PETERS SHORTHAND REPORTING CORPORATION (916) 362-2345

COMMITTEE MEMBERS PRESENT

James D. Boyd, Presiding Member

Arthur H. Rosenfeld, Associate Member

HEARING OFFICER AND ADVISORS

Susan J. Brown, Advisor

David Hungerford, Advisor

Kenneth Celli, Hearing Officer

STAFF AND CONSULTANTS PRESENT

Jared Babula, Staff Counsel

Felicia Miller, Project Manager

APPLICANT

Jane E. Luckhardt, Attorney
Downey, Brand Attorneys, LLP

Joseph L. Stenger, Senior Project Manager
TRC Solutions

Richard M. (Mike) Jones, Project Director
J-Power Group
J-Power USA Development Co., Ltd.

INTERVENOR

Archie D. McPhee

ALSO PRESENT

Steve Taylor
San Diego Gas and Electric Company

Taylor Miller
Sempra Energy

ALSO PRESENT

Keith Lewinger
Fallbrook Public Utility District

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P R O C E E D I N G S

10:32 a.m.

PRESIDING MEMBER BOYD: Good morning. I am Commissioner Jim Boyd, the Presiding Member of our Siting Committee, and I welcome you to today's hearing on the Orange Grove peaker project.

Our hearing today is being conducted by the Siting Committee of the Energy Commission for this particular proposal.

There are two purposes for today's meeting. The first is to reopen the evidentiary record in this case for the limited purpose of receiving evidence relevant to alternatives, land use, project description and traffic and transportation.

The second purpose of today's meeting is to discuss the comments on the Presiding Member's Proposed Decision, or as we say, PMPD, which were filed both by the staff and applicant.

So, before we get into that more formal part, I'd like to have introductions. As I indicated, I'm Commissioner Jim Boyd. To the left of our Hearing Officer is Commissioner Arthur Rosenfeld, who is the Associate Member of the Siting Committee.

1 To my right is my Advisor, Susan Brown.
2 To Commissioner Rosenfeld's left is his Advisor,
3 David Hungerford. Sitting here in the middle is
4 our Hearing Officer Kenneth Celli, who in a few
5 moments is going to be conducting the rest of
6 today's hearing for us.

7 Now, if the applicant would like to
8 introduce their representatives, as she hurries
9 back to the table.

10 MS. LUCKHARDT: Hello. My name is Jane
11 Luckhardt, and I am counsel for the applicant. To
12 my right is Mike Jones for Orange Grove Energy and
13 J-Power. To my left is Joe Stenger from TRC, the
14 consultant on the project. And then we've got
15 other folks in the audience. I won't introduce
16 everybody. If they come up we'll introduce them
17 as they come up.

18 PRESIDING MEMBER BOYD: Okay. Staff.

19 MR. BABULA: Yeah, hi. I'm Jared
20 Babula, Staff Counsel. And sitting next to me is
21 Felicia Miller, the Project Manager.

22 PRESIDING MEMBER BOYD: Intervenors.

23 MR. MCPHEE: I'm Archie McPhee, civil
24 engineer, chemical engineer, and a certified
25 expert in wastewater and water engineering.

1 PRESIDING MEMBER BOYD: Thank you. Do
2 we have any other intervenors here today? Neither
3 Anthony Arand or anyone representing anyone from
4 the Alliance for a Cleaner Tomorrow? Okay.

5 Do we have any government agencies who
6 would like to introduce themselves, such as the
7 Air Pollution Control District, or one of the
8 water districts, utility districts, so on and so
9 forth? Any representative of San Diego Gas and
10 Electric?

11 MR. TAYLOR: Steve Taylor with San Diego
12 Gas and Electric.

13 MR. MILLER: Taylor Miller, Semptra
14 Energy. Good morning.

15 MR. LEWINGER: Keith Lewinger
16 (phonetic), Fallbrook Public Utility District.

17 PRESIDING MEMBER BOYD: Thank you. Do
18 we have any elected officials or anyone else who
19 would like an introduction today?

20 Okay. Thank you, all, for those
21 introductions. And I'm now going to turn over the
22 conduct of these proceedings to our Hearing
23 Officer, Mr. Celli. So, it's all yours.

24 HEARING OFFICER CELLI: Thank you,
25 Commissioner. Can you all hear me okay? A little

1 bit closer? How's that, is that better?

2 MR. SPEAKER: Yes.

3 HEARING OFFICER CELLI: Okay, very good.

4 Good morning, everyone. Kenneth Celli here.

5 Before we begin I just have to do a
6 little housekeeping in these times of budgetary
7 constraint. We don't have a Public Adviser here
8 today, so if anybody's here who would like to make
9 a comment, when we have the public comment period,
10 we need you to fill out one of these blue cards
11 that are over on the table on the left.

12 Also on the left on the table is --

13 PRESIDING MEMBER BOYD: Your left, their
14 right.

15 HEARING OFFICER CELLI: That's correct.
16 State's left, I guess. On your right, table near
17 the door, are copies of the new exhibits list with
18 new exhibits submitted by the parties. And also
19 the draft errata, which is what we're going to be
20 working with today.

21 If you'd like to speak, please fill out
22 one of these blue forms, and I will collect them.
23 Just leave them on the table and I will collect
24 them just before the public comment time.

25 I also have to say, if you'll forgive

1 me, pardon my Spanish.

2 (Spanish announcement.)

3 HEARING OFFICER CELLI: Seeing none.

4 And you don't need to transcribe that.

5 (Laughter.)

6 HEARING OFFICER CELLI: We're doing what
7 we can.

8 Ladies and gentlemen, notice of
9 availability of the PMPD, what we call the PMPD,
10 the Presiding Member's Proposed Decision, was
11 issued on February 25, 2009, beginning a 30-day
12 review and comment period which ends March 25th.

13 The notice directed the parties to
14 present evidence on the following issues: One,
15 the discrepancy of the water usage figures between
16 soil and water resources and project alternative
17 sections of the PMPD.

18 Secondly, we wanted to know whether the
19 basis of the real property was a tolling
20 agreement, a leasehold or both. Whether the
21 leasehold constituted an illegal or unpermitted
22 subdivision. Whether the subdivision would
23 violate any minimum lot size zones, if it were a
24 subdivision.

25 And finally, we wanted to take evidence

1 on the duration of the pipeline construction, the
2 hours of construction, where and when flagmen will
3 be needed, and a basis for the conclusion that
4 there will be no significant impact to traffic
5 flow as it related to the construction of the
6 pipeline under state route 76.

7 We've reviewed and we've marked for
8 identification, the following: Exhibit 63 is the
9 testimony of Richard Jones regarding land use.

10 Exhibit 64 is the testimony of Joseph
11 Stenger regarding soil and water resources.

12 Exhibit 65 is the applicant's comments
13 to the PMPD.

14 Exhibit 66 is testimony of Joseph
15 Stenger regarding traffic and transportation.

16 Exhibit 203 is staff's response to
17 Committee's questions and comments on the PMPD.

18 Exhibit 204 is the declaration of
19 Suzanne L. Phinney.

20 Exhibit 205 is the declaration of
21 Felicia Miller.

22 Exhibit 206 is a letter dated January
23 7th from the County of San Diego to Stephen Thome
24 regarding the Subdivision Map Act.

25 Exhibit 207 is the declaration of James

1 Adams.

2 Exhibit 208 is the declaration of Robert
3 Morris and order number 91.39, waste discharge
4 requirements for Fallbrook Sanitary District for
5 the California Regional Water Quality Control
6 Board, San Diego Region. And addendum numbers 1
7 through 3 to order 91-39.

8 Exhibit 209 is the declaration of Jared
9 Babula.

10 And exhibit 210 is staff's comments and
11 corrections to the Presiding Member's Proposed
12 Decision.

13 Those are the only exhibits that we have
14 received that were submitted in a timely fashion.

15 The applicant has the burden, and so
16 we're going to ask the applicant to begin,
17 followed by staff, and then the intervenors, to
18 cross-examine, if necessary. And so with that,
19 Ms. Luckhardt.

20 MR. McPHEE: Mr. Celli, can I make any
21 comments on water and wastewater use?

22 HEARING OFFICER CELLI: You can make a
23 comment on, let's see -- just to be clear right
24 now what we're doing is we're opening the
25 evidentiary record to take in additional evidence

1 on four issues that were raised by the Committee.
2 There was a discrepancy in the amount of water
3 used -- rates in the beginning. Okay, the water
4 use. The basis for the real property agreement,
5 you know, with regard to a leasehold. And
6 evidence on the construction of the zone. And we
7 are limited to those issues.

8 So I don't believe soil and water is a
9 part of the new additional evidence that we will
10 be taking today.

11 MR. MCPHEE: Well, in other words I'm
12 wasting my time here.

13 HEARING OFFICER CELLI: Well, I don't
14 know about that, but -- and we appreciate your
15 being here. You have contributed a lot. But what
16 we need to do in order to maintain the record is
17 we can only take evidence on those few issues that
18 we noticed in our notice of availability.

19 MR. MCPHEE: Yeah, but what I've seen in
20 the California -- related to recycled water, there
21 is a large discrepancy between the definition of
22 tertiary treated recycled water and disinfected
23 tertiary recycled water. There's a very very
24 large discrepancy between.

25 And what you have done in the past is

1 combine the two --

2 HEARING OFFICER CELLI: Let me --

3 MR. MCPHEE: -- and said they're the
4 same thing, and they're not.

5 HEARING OFFICER CELLI: Let me just
6 remind you that at the close of the evidence,
7 after we only hear evidence on these four items,
8 we are going to then have a conference on the
9 PMPD, on the errata, themselves, and then you're
10 free to comment at that time.

11 So, --

12 MR. MCPHEE: Just comment or can I
13 present -- make a presentation?

14 HEARING OFFICER CELLI: You can comment,
15 and you're a party, so we will be discussing the
16 errata. So I think that you will have the
17 opportunity you're looking for after we finish the
18 evidentiary session.

19 PRESIDING MEMBER BOYD: Remember when I
20 opened this meeting I said we're dividing it into
21 two sections. The first section is as the Hearing
22 Officer indicated, we've reopened the evidentiary
23 record for the limited purposes he mentioned.

24 Once we close that, we'll then have a
25 general hearing on the Presiding Member's Proposed

1 Decision. And during that time you can comment on
2 your items. So, just be patient.

3 HEARING OFFICER CELLI: So, with that,
4 Ms. Luckhardt, please.

5 MS. LUCKHARDT: Okay, so I have
6 witnesses here. We have filed prefiled testimony
7 including exhibits 23, 24 --

8 HEARING OFFICER CELLI: Wait a second.
9 I only have -- we started exhibit 63, because 23
10 is already --

11 MS. LUCKHARDT: Sorry. I'm looking at
12 the wrong page, that's my error there.

13 Okay, it should be exhibit 63, 64, and
14 66, which is -- 63 is the testimony of Richard
15 Jones regarding land use, --

16 HEARING OFFICER CELLI: Correct.

17 MS. LUCKHARDT: -- responding to the
18 questions that you had asked.

19 64 is the testimony of Joe Stenger
20 regarding soil and water resources.

21 And 66 is the testimony of Joe Stenger
22 regarding traffic and transportation.

23 We would at this time move that those be
24 taken into the evidentiary record. And we would
25 request that in moving traffic and transportation

1 that we move in the attachments that were filed on
2 Friday.

3 I've handed out copies to the parties,
4 and there are some other copies on the back table.
5 We inadvertently sent out an earlier version that
6 did not include the third flag person, and so we
7 have corrected that. And the new exhibits contain
8 the third flag person. I think it's at Acuzer
9 Canyon Road, is that correct? Yeah.

10 And so at this time we'd move those
11 three into evidence. Both witnesses are here and
12 were previously sworn, and are available if there
13 are questions on any of those topics at this time.

14 HEARING OFFICER CELLI: Well, let me ask
15 you this. I also have -- so 63 is Richard Jones'
16 testimony; 64 and 66 are both Joseph Stenger. I
17 also have exhibit 65, which is the applicant's
18 comments to the PMPD.

19 MS. LUCKHARDT: Right. I didn't know if
20 you wanted to move those into the evidentiary
21 record? You would --

22 HEARING OFFICER CELLI: I would prefer
23 to just to keep the record whole.

24 MS. LUCKHARDT: Okay, that's fine. Then
25 we would also move 65, which are applicant's

1 comments on the Presiding Member's Proposed
2 Decision.

3 I don't know if this is the appropriate
4 time also, too, and you can direct me one way or
5 the other. I have also passed out a letter from
6 Keith Lewinger, who is the General Manager of the
7 Fallbrook Public Utility District. We can move
8 that in as comments, as an additional exhibit on
9 the Presiding Member's Proposed Decision at this
10 time, or we can wait.

11 HEARING OFFICER CELLI: You know, I
12 think we're going to have to put it in as comment.

13 MS. LUCKHARDT: After this?

14 HEARING OFFICER CELLI: Yes.

15 MS. LUCKHARDT: Okay, that's fine.

16 HEARING OFFICER CELLI: So, with that,
17 I'm going to turn to staff and ask whether there's
18 any objection to exhibits 63, 64, 65 or 66?

19 MR. BABULA: No objection.

20 HEARING OFFICER CELLI: Thank you. Mr.
21 McPhee, do you have any objection to the receipt
22 of exhibits 63, 64, 65 or 66?

23 MR. MCPHEE: What do they involve?

24 HEARING OFFICER CELLI: 63 is testimony
25 of Richard Jones regarding land use and the nature

1 of the agreement between the two parties.

2 MR. McPHEE: No objection.

3 HEARING OFFICER CELLI: 64 is the
4 testimony of Joseph Stenger regarding soil and
5 water resources. That was the one that had to do
6 with the discrepancy of the alternative said there
7 was something like 87 acrefeet per year, and that
8 was a wrong number. And the proper number was in
9 soils and water and --

10 MR. McPHEE: I'd like to hear that.

11 HEARING OFFICER CELLI: Well, actually,
12 that was -- well, let me ask, did you serve Mr.
13 McPhee with your testimony?

14 MS. LUCKHARDT: Yes.

15 HEARING OFFICER CELLI: So that was that
16 packet that you would have received and the emails
17 that included the testimony.

18 MR. McPHEE: Was it sent (inaudible)
19 return card?

20 MS. LUCKHARDT: Sure, it's -- I have a
21 copy. I can hand him a copy of --

22 MR. McPHEE: Because I didn't receive
23 it.

24 MS. LUCKHARDT: It's just a page and a
25 half.

1 HEARING OFFICER CELLI: Thank you, Ms.
2 Luckhardt.

3 Just to be clear for the record, the
4 testimony of Joseph Stenger regarding soil and
5 water is to correct an error, a mistake of water
6 use in acrefeet per year that showed up in the
7 staff's assessment in the alternative section.

8 MR. McPHEE: No, I accept that, yeah,
9 it's right.

10 HEARING OFFICER CELLI: No objection?

11 MR. McPHEE: Correction, yeah.

12 HEARING OFFICER CELLI: Thank you. So,
13 with that, 63 is received.

14 Exhibit 64 -- I'm sorry, that was 64.
15 I'm going to receive them in a moment.

16 The applicant's comments on the PMPD are
17 basically all of their comments about we misplaced
18 a comma here and all of the changes and edits that
19 staff submitted. Did you receive those?

20 MR. McPHEE: I didn't receive those, but
21 I'll accept that. It's typos that were made, and
22 I accept that.

23 HEARING OFFICER CELLI: And then exhibit
24 66 is the testimony of Joseph Stenger regarding
25 traffic and transportation, which was designed to

1 address questions having to do with the use of the
2 flagmen on state route 76 during the boring
3 underneath of state route 76 for the gasline
4 pipeline.

5 MR. McPHEE: Okay. No, I accept that.

6 HEARING OFFICER CELLI: No objection?

7 MR. McPHEE: No objection.

8 HEARING OFFICER CELLI: Very well.

9 Exhibits 63, 64, 65 and 66 will be received into
10 evidence.

11 Anything further from applicant?

12 MS. LUCKHARDT: Nothing further at this
13 time.

14 HEARING OFFICER CELLI: Thank you. Now,
15 at this time I'm going to turn it over to staff.
16 We have marked certain exhibits that I already
17 called out to you, 203 through 210. Okay, you
18 have a motion?

19 MR. BABULA: I'd like to move those all
20 into the record. And I don't have any staff here,
21 but there are declarations that were provided in
22 lieu of staff being present. I'd like to enter
23 all those into the record.

24 HEARING OFFICER CELLI: Did you provide
25 copies to Mr. McPhee, the intervenor?

1 MR. BABULA: Yes, everybody received
2 copies.

3 HEARING OFFICER CELLI: Very well.
4 First, Mr. McPhee, any objection to exhibit 204,
5 205, 206, 207, 208, 209 or 210?

6 MR. MCPHEE: Can I have some copies of
7 those here now? Can you explain what 203 -- these
8 are, please?

9 HEARING OFFICER CELLI: Certainly. 203
10 were staff's comments on the PMPD, again errors
11 and things --

12 MR. MCPHEE: No, I have no objections,
13 no.

14 HEARING OFFICER CELLI: 204 was the
15 declaration of Suzanne Phinney on --

16 MR. BABULA: She was the one who
17 initially put the wrong numbers in in
18 alternatives. So she was correcting that soil and
19 water numbers for the amount of water being used
20 with the correct number.

21 HEARING OFFICER CELLI: So that's the
22 declaration that states that there was an error in
23 alternatives and corrects the error.

24 MR. MCPHEE: Okay, that's all right.

25 HEARING OFFICER CELLI: No objection?

1 MR. MCPHEE: No objection.

2 HEARING OFFICER CELLI: Okay. Exhibit
3 205 is the declaration of Felicia Miller regarding
4 -- Ms. Miller?

5 MS. MILLER: Clarification on the
6 difference between a lease and a tolling
7 agreement.

8 HEARING OFFICER CELLI: Okay. So this
9 is a leasehold that they -- we made a
10 determination that they will be leasing, on top of
11 their tolling agreement, they're going to be
12 leasing the land from San Diego Gas and Electric.
13 And as a public utility the land is exempt from
14 the Subdivision Map Act.

15 And so that --

16 MR. MCPHEE: Okay.

17 HEARING OFFICER CELLI: -- that was
18 unclear to us. And now it is.

19 MR. MCPHEE: No objection to that. But
20 I have a state of California traffic control --
21 oh, that's traffic control plans, okay.

22 HEARING OFFICER CELLI: That was part of
23 the applicant's exhibits. So now we're just
24 talking about staff's exhibits --

25 MR. MCPHEE: Okay.

1 HEARING OFFICER CELLI: -- at this
2 point. Also the letter dated January 7, 2009,
3 from the County of San Diego to Stephen Thome.
4 This is exhibit 206. That was the letter that
5 cleared up that they were exempt from the
6 Subdivision Map Act.

7 MR. MCPHEE: Okay, no objection.

8 HEARING OFFICER CELLI: No objection.
9 We have exhibit 207, declaration of James Adams
10 with regard to the traffic controls during the gas
11 pipeline boring.

12 MR. MCPHEE: No, not -- I have no
13 objection to that particular part.

14 HEARING OFFICER CELLI: Exhibit 208 is
15 the declaration of Robert Morris and order number
16 91-39, the waste discharge requirements for
17 Fallbrook Sanitary District by the California
18 Regional Water Quality Control Board, San Diego
19 Region, and addenda.

20 And that is basically, I guess I would
21 leave it up to Mr. Babula to probably give a
22 better explanation, but it's really the rules that
23 are going to govern the use of recycled water. Do
24 I have that correct?

25 MR. BABULA: Right. And the main reason

1 for entering that is I had initially cross-
2 examined you, I referred to a document. And in
3 the PMPD that document was referred to as well,
4 but it wasn't in the record.

5 So to appropriately be referred to it
6 should be part of the record.

7 MR. MCPHEE: -- to that, because I don't
8 believe that AMFA (phonetic) is providing
9 disinfected tertiary recycled water, as required
10 by the California laws related to recycled water.
11 Title 22, June 2001 edition. They are not
12 complying with that in my opinion.

13 Definitions don't lie, okay.

14 MR. BABULA: Well, their declaration is
15 just authenticating this order number 91-39, that
16 this is an appropriate copy of this order. So the
17 waste discharge order is a true and correct copy.
18 That's what's being submitted.

19 MR. MCPHEE: What do you mean by the
20 waste, what waste discharge?

21 MR. BABULA: The letter you received,
22 it's order number 91-39 which regulates the water
23 quality of the Fallbrook's discharges. That's
24 what I referred to when I asked you in cross-
25 examination. And so I just wanted to get that

1 document into the record.

2 HEARING OFFICER CELLI: In other words,
3 Mr. McPhee, exhibit 209 is a declaration of Jared
4 Babula who says that I mistakenly referred to a
5 document I believe is the NPDES document in cross-
6 examination, when what he was referring to was
7 this order number 91-39.

8 So basically that's a correction to the
9 record, and that's why we opened the record.

10 MR. MCPHEE: Well, in an omission,
11 McPhee also asserts that the presence of ammonia
12 in reclaimed water chemistry is not disinfected.
13 However, Mr. McPhee's testimony indicates that if
14 a disinfectant is -- I never ever said it
15 disinfects recycled water.

16 HEARING OFFICER CELLI: That's not
17 really --

18 MR. MCPHEE: -- uses chlorine for a
19 disinfectant, which means it disinfects its
20 potable water. I did not ever state that FPUD
21 disinfects its recycled water.

22 HEARING OFFICER CELLI: But that's not
23 what's in issue here. The only thing we're doing
24 is there was a misstatement of a document by Mr.
25 Babula. He claimed that the information he was

1 eliciting from you was in the NPDES document. It
2 was actually in this other document. And they
3 want to put the proper document into the record,
4 which is this order from the San Diego --

5 MR. BABULA: Regional Water Quality
6 Control Board.

7 HEARING OFFICER CELLI: -- Regional
8 Water Quality Control Board, San Diego Region.

9 MR. MCPHEE: Okay.

10 HEARING OFFICER CELLI: So that's all
11 we're doing right now.

12 MR. MCPHEE: Okay.

13 HEARING OFFICER CELLI: So, no
14 objection?

15 MR. MCPHEE: No objection to that.

16 HEARING OFFICER CELLI: And lastly, I
17 have -- so that was exhibit 208 and 209, because
18 209 is the declaration of Mr. Babula.

19 210 is staff's comments and corrections
20 to the PMPD, which as I stated before, are simply
21 their edits and comments to things that they found
22 were wrong in the PMPD.

23 Any objection to that, Mr. McPhee?

24 MR. MCPHEE: Repeat that again, please.

25 HEARING OFFICER CELLI: 210, exhibit 210

1 are the comments made by staff in general. When
2 they read the PMPD and they found wrong statements
3 or misstatements or errors, edits that they wanted
4 to make, they gave us a list of what they call the
5 errata, which are the errors.

6 MR. MCPHEE: Okay, no, I don't have any
7 problems with that.

8 HEARING OFFICER CELLI: That's what
9 we're talking about.

10 MR. MCPHEE: There was a lot of errors
11 in that document.

12 HEARING OFFICER CELLI: Yes. So, with
13 that motion to receive 203, 204, 205, 206, 207,
14 208, 209 and 210 is granted. Those are received
15 into evidence.

16 And -- no, one second. I'm not going to
17 receive them yet because I haven't heard from the
18 applicant.

19 MS. LUCKHARDT: No objection.

20 HEARING OFFICER CELLI: Any objection to
21 203 through 210, inclusive?

22 MS. LUCKHARDT: No objection.

23 HEARING OFFICER CELLI: Thank you. Now
24 exhibits 203 through 210 will be received into the
25 record.

1 Now, what I'd like to do is open for
2 public comment on only the issues raised in the
3 documents. Is there anyone who wants to make a
4 comment on only the issues that were raised in
5 this section, that is the evidence that we just
6 took in? Any of the testimony of any of the
7 declarants? Do I see anyone?

8 Seeing none, then, the record is closed.
9 And we are now going to move on to the next part
10 of our hearing, which is the errata and the
11 comments on the PMPD.

12 The staff and applicant were the only
13 people who filed comments on the PMPD on March
14 9th, both of them filed on March 9th.

15 The comments have all been incorporated
16 into a draft errata. The draft errata is sitting
17 on that table if anybody wants to take a look at
18 it. I recommend that you do if you want to stay
19 with us.

20 The only real issue that I found that
21 needs resolution today, and I'm going to open it
22 to the parties to call anything else to my
23 attention, would be the dispute over the land use.

24 There were two different versions of
25 land use-1, and we will resolve that in this

1 hearing.

2 But what I'm going to do is turn it over
3 to the applicant first and ask the applicant to
4 make any comments on the errata. So, with that,
5 please, Ms. Luckhardt.

6 MS. LUCKHARDT: The only comment we had
7 related to, I believe, -- the only comment we had
8 or wanted to address today was in regards to your
9 errata number 18 which had to do with the two
10 separate verifications for land-1 --

11 HEARING OFFICER CELLI: Excuse me, I
12 just need to get a copy.

13 (Pause.)

14 HEARING OFFICER CELLI: Okay, we're on
15 number 18?

16 MS. LUCKHARDT: Number 18. We had
17 requested that this requirement which relates to
18 providing applicable design standards and building
19 codes and evidence of design review to two
20 agencies at the county instead of three.

21 The first edit which both applicant and
22 staff made was deleting the and building
23 inspection, because you can't inspect buildings 60
24 days prior to the start of construction. So we're
25 both on the same page there.

1 We had also asked that we just provide
2 this information to two departments in the county,
3 that is County of San Diego Environmental Health
4 because Environmental Health is required to review
5 the septic tank requirements. So those need to go
6 to Environmental Health.

7 And Public Works for code review. We're
8 concerned about getting comments back just from
9 two separate departments, let alone three, prior
10 to the start of construction on these. And that's
11 why we had asked that we just use San Diego
12 Department of Public Health and the Public Works
13 Department, as opposed to adding yet a third
14 department, Planning and Land Use and Building.

15 HEARING OFFICER CELLI: Thank you. And,
16 staff?

17 MR. BABULA: We have no objection to
18 that.

19 HEARING OFFICER CELLI: So you would be
20 willing to stipulate to applicant's proposed
21 verification?

22 MR. BABULA: Correct.

23 HEARING OFFICER CELLI: On land-1?

24 MR. BABULA: Right.

25 HEARING OFFICER CELLI: Mr. McPhee, any

1 comment?

2 MR. McPHEE: No comment.

3 HEARING OFFICER CELLI: With that then
4 we would strike staff's proposed verification on
5 page 5 of the errata. We will adopt applicant's
6 proposed item number 18 proposed verification.

7 Anything further?

8 MS. LUCKHARDT: The only other thing
9 that we would like to do at this time, if this is
10 the appropriate time, is to introduce the letter
11 that we have passed around this morning from Mr.
12 Keith Lewinger, the General Manager of the
13 Fallbrook Public Utility District.

14 We would like that to come in as public
15 comment today. And also Mr. Lewinger is available
16 when it is the appropriate time to provide his
17 comments.

18 HEARING OFFICER CELLI: Thank you. We
19 will take public comment after we finish with the
20 parties on this section. So, if you'll just sit
21 tight, Mr. Lewinger, we'll get to you. Thank you.

22 Staff, comments on the errata, please.

23 MR. BABULA: I do have one comment. And
24 this is -- I'm not sure if you want to proceed to
25 this, actually have a new slight change to some of

1 the text beyond the errata.

2 HEARING OFFICER CELLI: Okay.

3 MR. BABULA: Okay, on page --

4 HEARING OFFICER CELLI: Let's take them
5 in order.

6 MR. BABULA: Okay. Page 259, the
7 biology section, --

8 HEARING OFFICER CELLI: Oh, this is a
9 new --

10 MR. BABULA: Right. This would not be
11 on the errata, this would be in the PMPD, itself.
12 Or to find it, it would be in the --

13 MR. MCPHEE: I don't have that.

14 MS. MILLER: Do you want to look at
15 mine.

16 MR. BABULA: Okay, the paragraph starts
17 with: The County of San Diego incorporates the
18 habitat of sensitive species protection measures
19 through their habitat loss permit."

20 And then the next line goes into "and
21 approve HPL's required before the San Diego County
22 Department of Public Works can issue a grading
23 permit and coastal sage scrub" and it goes all the
24 way to the end of the parentheses that ends in
25 "November 1999."

1 I propose striking everything from
2 "approve HPL" to "1999." Get rid of that section,
3 and then leave the rest which then would start,
4 "The Orange Grove project is currently under
5 review by the San Diego Public Works Department."

6 And the reason for that is to be
7 consistent with the change in soil and water-4
8 regarding the role of the grading permit. And the
9 fact that the compliance folks would be reviewing
10 the information and then, if approved by them,
11 then proceeding, as opposed to having the county
12 issue the grading permit before any construction
13 can begin.

14 HEARING OFFICER CELLI: Any questions
15 from the Committee? No. Any questions, Mr.
16 McPhee?

17 MR. MCPHEE: No questions, no.

18 HEARING OFFICER CELLI: Applicant?

19 MS. LUCKHARDT: No question. Staff's
20 requested change, I think, is fine. It leaves in
21 the requirement for the habitat loss permit which
22 we are obtaining from the county.

23 HEARING OFFICER CELLI: Okay. So if
24 there's no objection then we would accept those.

25 MR. BABULA: Okay. I have no further

1 issues.

2 HEARING OFFICER CELLI: Very good.

3 Mr. McPhee, it's your turn.

4 MR. MCPHEE: My turn. What?

5 HEARING OFFICER CELLI: What we're doing
6 is we're looking at -- you've been provided with
7 the errata to the Presiding Member's Proposed
8 Decision. And these are the changes that were
9 submitted --

10 MR. MCPHEE: Okay.

11 HEARING OFFICER CELLI: -- to the
12 Committee by the parties. And we're interested in
13 knowing whether you have any comment on --

14 MR. MCPHEE: I have a comment on comment
15 number 26, page 202. It looks like page 7.

16 HEARING OFFICER CELLI: Okay.

17 MR. MCPHEE: Mr. McPhee also asserts
18 that the presence of ammonia in FPUD's reclaimed
19 water profile indicates that FPUD's recycled water
20 is not disinfected. Which is true.

21 However, Mr. McPhee's testimony also
22 indicates that PUD disinfects its recycled water
23 using chlorine. That's false.

24 I stated that FPUD uses liquid chlorine
25 to disinfect its water, which means that FPUD uses

1 chlorine to disinfect its potable water. I never
2 made any statement concerning disinfection of
3 recycled water with chlorine, ever.

4 MR. BABULA: I didn't write that.

5 (Laughter.)

6 MR. McPHEE: Never.

7 (Laughter.)

8 MR. McPHEE: It's false testimony.

9 HEARING OFFICER CELLI: Okay.

10 MR. McPHEE: Uses liquid chlorine to
11 disinfect its potable water.

12 HEARING OFFICER CELLI: So you're saying
13 it refers to potable water, only?

14 MR. McPHEE: Yes. Not recycled water,
15 potable water.

16 HEARING OFFICER CELLI: Okay. So you
17 want us to strike the word "recycled" --

18 MR. McPHEE: Yes.

19 HEARING OFFICER CELLI: -- and enter
20 "potable"?

21 MR. McPHEE: Yes. Strike the word
22 "recycled" and leave "water" there.

23 PRESIDING MEMBER BOYD: Well, would it
24 be better if we added "potable" there?

25 MR. McPHEE: Yes, it would be better to

1 write potable water, and that would clarify my
2 remark.

3 HEARING OFFICER CELLI: Very good.
4 Anything further?

5 MR. MCPHEE: That's it. That's it, and
6 I have potable water --

7 HEARING OFFICER CELLI: Very good.

8 MR. MCPHEE: -- on this errata comment
9 here.

10 HEARING OFFICER CELLI: Thank you very
11 much. Any comment on Mr. McPhee's comment? Ms.
12 Luckhardt?

13 MS. LUCKHARDT: We don't have the
14 transcript in front of us, but I think it probably
15 doesn't matter. I think Mr. McPhee has clarified
16 his intent, so I think that's fine.

17 HEARING OFFICER CELLI: I think it is
18 clear.

19 MS. LUCKHARDT: And it's characterizing
20 his testimony.

21 HEARING OFFICER CELLI: Staff?

22 MR. BABULA: I have no further comment
23 on that.

24 HEARING OFFICER CELLI: Very good, very
25 efficient. So with that, then, is there anything

1 further, Mr. McPhee?

2 MR. MCPHEE: No.

3 HEARING OFFICER CELLI: Okay.

4 MR. MCPHEE: Not on this errata
5 statements.

6 HEARING OFFICER CELLI: Then what we
7 will do is we will incorporate these changes into
8 the PMPD and the recommended decision to the
9 Commission.

10 And at this point now we would open up
11 the microphone right here at the podium to public
12 comment. And I think what I'd like to do to
13 kick it off is have --

14 MR. MCPHEE: Mr. Celli, I'd like to make
15 one more comment on item number 26. It says:
16 Furthermore, staff noted at the evidentiary
17 hearing that FPUD's National Pollution Discharge
18 Elimination System permit indicates that FPUD
19 indeed produces disinfected tertiary recycled
20 water. And I disagree with that.

21 HEARING OFFICER CELLI: Did you read
22 this? In red, underneath that, is an additional
23 insertion that corrects the record with regard to
24 the NPDES. That was that piece of evidence that
25 we took in earlier that Mr. Babula's testimony --

1 MR. MCPHEE: Staff subsequently
2 corrected the record to indicate that the document
3 they were referring to was order number 91-39,
4 waste discharge requirements for Fallbrook
5 Sanitary District (see declaration number of
6 Jared --

7 HEARING OFFICER CELLI: Exhibit 209,
8 that's what was received today.

9 MR. MCPHEE: Just because the waste
10 discharge requirements for Fallbrook are what they
11 say they are doesn't mean that's what Fallbrook
12 Public Utility District is actually doing.

13 Because there's no indication by
14 analysis, chemical analysis, that they are
15 disinfecting. You know, what that they are
16 producing --

17 HEARING OFFICER CELLI: One of the
18 things that we're -- this whole process is really
19 prospective in that we're trying to determine what
20 all the potential impacts that might occur as a
21 result of this power plant being constructed --

22 MR. MCPHEE: Um-hum.

23 HEARING OFFICER CELLI: -- and for every
24 potential impact, every possible thing we try to
25 order a condition to mitigate whatever that might

1 be.

2 MR. McPHEE: Um-hum.

3 HEARING OFFICER CELLI: So that
4 essentially it comes in as a neutral non-impactful
5 project.

6 MR. McPHEE: Um-hum.

7 HEARING OFFICER CELLI: The project
8 hasn't started yet.

9 MR. McPHEE: No, I know that.

10 HEARING OFFICER CELLI: And so what FPUD
11 is doing today doesn't necessarily control what
12 they're going to be doing with regard to this
13 power plant. Because we, and the California
14 Energy Commission having jurisdiction over power
15 plants, require that if this power plant goes in
16 this power plant may not operate unless every
17 single condition that has been imposed upon the
18 applicant is in full compliance.

19 MR. McPHEE: Who's going to inspect
20 that?

21 HEARING OFFICER CELLI: The California
22 Energy Commission has what we call the CPM, the
23 compliance project manager, who oversees a CBO,
24 oversees all of the biological, the cultural
25 people. It's essentially a network of people who

1 oversee every part of the construction of this
2 power plant to make sure that they're in
3 compliance.

4 And I can tell you, because I used to be
5 the compliance attorney for the Energy Commission,
6 that --

7 (Parties speaking simultaneously.)

8 MR. MCPHEE: -- inspectors that go out
9 to the field and inspect?

10 HEARING OFFICER CELLI: That's right.

11 MR. MCPHEE: That's what they do?

12 HEARING OFFICER CELLI: Yes.

13 MR. MCPHEE: Well, that's good.

14 HEARING OFFICER CELLI: And so what I --

15 MR. MCPHEE: That has not before been
16 indicated to me that this is what happens.

17 HEARING OFFICER CELLI: Oh, absolutely.

18 MR. MCPHEE: I've been an inspector and
19 I've been an inspector for the City of San Diego.
20 Actually I'm certified, the pump station
21 certification. And I've seen inspectors pass
22 things that I never pass.

23 As a matter of fact, on one project I
24 had something like 200 pages of correction items
25 before I would certify that installation to be

1 absolutely correct.

2 And I certainly want the California
3 Energy Commission and you guys to make certain
4 that everything that is supposed to be is actually
5 going to be. And that's what I'm asking.

6 HEARING OFFICER CELLI: That's what we
7 do. And moreover, in addition to the authority to
8 check out a power plant, which costs them tons of
9 money, we also have the ability to impose fines.

10 And so that's the whole purpose of this.
11 First, we're setting up what the rules are going
12 to be, then we make sure and watchdog that the
13 power plant complies with all of the rules.

14 MR. MCPHEE: One of the things that
15 makes me a little nervous is it was published in
16 the "North County Times" that the Orange Grove
17 Power Plant has never before built a power plant
18 here.

19 HEARING OFFICER CELLI: Well, the owners
20 have.

21 MR. MCPHEE: It makes me nervous.

22 HEARING OFFICER CELLI: But they hire
23 people who have, and that's who's here.

24 The reason I'm saying this is because if
25 FPUD is not producing, you know, tertiary recycled

1 water as they are required to do then the CPM will
2 shut them down.

3 MR. MCPHEE: It's disinfected tertiary
4 recycled water.

5 HEARING OFFICER CELLI: Correct.

6 MR. MCPHEE: Title 22 specifies four
7 different types of recycled water. It's
8 disinfected secondary 2.2 recycled water;
9 disinfected secondary 22 recycled water -- or 23
10 recycled water; disinfected tertiary recycled
11 water; and undisinfected secondary recycled water.

12 And that undisinfected secondary
13 recycled water must be oxidized. All four of them
14 have to be oxidized to remove that stinking odor
15 that normally goes with recycled water.

16 HEARING OFFICER CELLI: Well, I had to
17 laugh because as I was reading, oh, I think it was
18 the order number 91-39 or whatever, they used the
19 word reclaimed. And I was thinking of you as I
20 was reading.

21 MR. MCPHEE: They used it. I've got it
22 in a document here where they're using it.

23 MR. BABULA: The later addendums --

24 HEARING OFFICER CELLI: That's right.
25 They're changing the language, they're using

1 recycled.

2 But, in any event, what I would like to
3 do then is, so we are now finished with this part
4 of the errata.

5 MR. MCPHEE: Okay, great.

6 HEARING OFFICER CELLI: We're going to
7 accept the errata as described.

8 I wanted to open it up to public comment
9 on the errata. And I was going to ask Mr.
10 Lewinger if you would please kick it off. We're
11 in receipt of this letter which we will accept in
12 the docket as part of the comment.

13 MR. LEWINGER: Thank you, Mr. Chairman,
14 Commission. Let me introduce myself, Keith
15 Lewinger, General Manager of Fallbrook Public
16 Utility District.

17 First, let me give you some of my
18 credentials regarding recycled water. I started
19 my career 37 years ago at Los Angeles County
20 Sanitation Districts where I was involved in the
21 use of recycled water for groundwater recharge.

22 I then went to Irvine Ranch Water
23 District where it's one of the nation's leading
24 users and developers of recycled water. While I
25 was there I developed the concept of using

1 recycled water for flushing toilets and urinals in
2 high-rise office buildings. I also came up with
3 the color purple to be used for the purple pipe
4 that you keep hearing about.

5 Then I went to Otay Water District in
6 San Diego County where we had an active recycled
7 water program.

8 And then I finally came to Fallbrook
9 Public Utility District. I'm a registered civil
10 engineer in the state of California. I'm a
11 certified planner with the American Institute of
12 Certified Planners.

13 I was a member of the Governor's
14 Recycled Water Task Force in 2006. I was a member
15 of the board of directors of the Water Reuse
16 Association National. I was a member of the board
17 of directors of the California Water Reuse
18 Association. And I was President of the Water
19 Reuse Association of California.

20 I was also called in as an expert
21 witness on recycled water in the U.S. v. San Diego
22 case. So I think my credentials speak for
23 themselves.

24 With respect to our compliance with our
25 waste discharge requirements, that compliance is

1 regulated by the Regional Water Quality Control
2 Board. We produce fully disinfected tertiary
3 effluent under Title 22. We have for the last 15
4 years, and we still do.

5 This treated wastewater tertiary
6 effluent is treated with chlorine, fully
7 disinfected and meets all the requirements of
8 Title 22, fully disinfected tertiary effluent.

9 The water that we're going to supply to
10 this project will be from that treatment plant.
11 It'll be fully disinfected tertiary effluent.

12 I can answer any questions you might
13 have, but that's the case, those are the facts.
14 We have never been -- I don't want to say never,
15 but we've had minor offenses in not meeting all
16 the requirements in our waste discharge
17 requirement, as any treatment plant does.
18 Sometimes your treatment plant produces off-spec
19 water.

20 In Fallbrook we have the unique
21 opportunity, when our effluent is not meeting full
22 tertiary disinfected Title 22 standards, we can
23 dispose of that water through an ocean outfall
24 into the ocean. And so therefore if it's
25 discharged into the ocean, we only have to meet

1 secondary effluent requirements.

2 So when we're not producing fully
3 treated tertiary effluent that meets all the
4 standards of the Regional Board, we err on the
5 side of caution and discharge that water to the
6 Pacific Ocean.

7 And for that period of time we
8 supplement our recycled water system with potable
9 water from our drinking water supply. So that's
10 how we make up the difference when we don't have
11 treated tertiary effluent that is available.

12 We have not had to do that in about the
13 last five years. So, we've had a pretty good
14 record. Every once in awhile something goes bump
15 in the night and your treatment plant is not quite
16 producing spec water. That happens in every
17 treatment plant in the country. When that happens
18 we discharge to the ocean. Get the treatment
19 plant running right again. And then we're
20 producing tertiary effluent.

21 For the other, the potable water that we
22 said we're going to supply to the power plant,
23 that water will only be available when we are in
24 less-than-level-two drought conditions here in
25 Fallbrook.

1 What that means is that anytime that we
2 are in a condition where we have asked our
3 customers to mandatorily cut back on their water
4 supply, we will not supply any potable water to
5 the power plant. They have the ability to still
6 get recycled water, but we will not supply them
7 with potable water during those periods.

8 I'd be happy to answer any questions you
9 might have.

10 HEARING OFFICER CELLI: Commissioners?

11 PRESIDING MEMBER BOYD: Just out of
12 curiosity, what state are we in at the present
13 time down here?

14 MR. LEWINGER: Stage one.

15 PRESIDING MEMBER BOYD: Stage one.

16 MR. LEWINGER: We will probably go to
17 stage two in July.

18 HEARING OFFICER CELLI: Commissioner
19 Rosenfeld? Any Advisors?

20 It was brought to our attention that
21 there's ammonia, there's some traces of ammonia in
22 the recycled water. And I wanted to know if you
23 would be able to address that.

24 MR. LEWINGER: We have ammonia limits in
25 our discharge requirements from the Regional Water

1 Quality Control Board. We meet those limits.

2 The presence of ammonia in the effluent
3 does not mean that it has not been disinfected.
4 It simply means that all the ammonia has not been
5 oxidized. But that does not mean that it hasn't
6 -- let me put that in the positive. I can
7 guarantee you that it has been fully disinfected
8 per the requirements of Title 22. And that is
9 reviewed monthly by the Regional Water Quality
10 Control Board.

11 It's analyzed on a daily basis at our
12 treatment plant, in the laboratory. Those results
13 are supplied to the Regional Water Quality Control
14 Board. And they review our documentation. And we
15 have not received any violations.

16 HEARING OFFICER CELLI: I have no
17 further questions. And I want to, first of all,
18 thank you very much for coming down.

19 MR. LEWINGER: My pleasure.

20 HEARING OFFICER CELLI: This was really
21 informative. And we had a lot of discussion about
22 the recycled water that would be used in this
23 power plant.

24 MR. LEWINGER: And I can absolutely
25 assure that we meet all the requirements for fully

1 treated tertiary effluent. And one of those uses
2 is used for manufacturing and other types of uses.

3 This water is also, just to give you an
4 idea, it's okay to swim in. That's one of the
5 accepted uses, direct body contact.

6 HEARING OFFICER CELLI: That's
7 excellent. I just, you know, really the one party
8 who had the most concern about the water was
9 intervenor Mr. McPhee with regard to the use of
10 the recycled water.

11 And I'm sure that the Committee's
12 satisfied with the state of the evidence we have
13 right now. I just wondered if it would be okay
14 with you if Mr. McPhee had any questions --

15 MR. LEWINGER: I will take his best
16 shot.

17 HEARING OFFICER CELLI: -- that you
18 could --

19 MR. MCPHEE: Well, there's was no
20 unreacted to hypochlorite in your chemical
21 analysis which is a requirement --

22 MR. LEWINGER: Excuse me?

23 MR. MCPHEE: No unreacted hypochlorite
24 in your effluent, which is a requirement of fully
25 disinfected. In other words, continuing addition

1 of chlorine past the break point will result in a
2 direct proportional increase in the free available
3 chlorine unreacted hypochlorite.

4 MR. LEWINGER: Mr. McPhee, you can
5 read --

6 MR. MCPHEE: And that's a requirement by
7 law that you have to have free chlorine, unreacted
8 hypochlorite in the effluent. It's not there.

9 HEARING OFFICER CELLI: May I ask, Mr.
10 McPhee, what are you reading from?

11 MR. MCPHEE: This is from a wastewater
12 engineering, collection, treatment and disposal by
13 the McGraw Hill series in water resources and
14 engineering. And it's Metcalf and Eddy, who are
15 really renown editors and publishers in water and
16 wastewater --

17 HEARING OFFICER CELLI: So is that some
18 sort of report on the quality of the tertiary
19 recycled water at Fallbrook?

20 MR. MCPHEE: Well, no, by law. By law.
21 It doesn't matter whether it's water or
22 wastewater. You have to have a residual of
23 chlorine in the water.

24 And in wastewater the chlorine is going
25 to show up as unreacted hypochlorite.

1 MR. LEWINGER: Mr. Celli.

2 HEARING OFFICER CELLI: Yes.

3 MR. LEWINGER: May I respond --

4 MR. MCPHEE: There is no -- there is
5 no --

6 MR. LEWINGER: -- at some point here?

7 HEARING OFFICER CELLI: Yes. So,
8 please, Mr. Lewinger.

9 MR. LEWINGER: Yeah. What Mr. McPhee is
10 quoting from is a great textbook written by
11 Metcalf and Eddy. It is not the regulations that
12 the Regional Water Quality Control Board
13 stipulates the Fallbrook Treatment Plant must
14 operate under.

15 They're the ones who set the rules.
16 They follow the guidelines set in Title 22, which
17 are issued by the state of California, not Metcalf
18 and Eddy. And we meet all of those requirements
19 that are issued by the Regional Board of the state
20 of California.

21 HEARING OFFICER CELLI: Yes, you
22 mentioned that they do a monthly review of your
23 daily analysis, is that correct?

24 MR. LEWINGER: That's correct.

25 HEARING OFFICER CELLI: So, --

1 MR. MCPHEE: What other treatment do you
2 do besides disinfection? Anything else?

3 MR. LEWINGER: The wastewater comes into
4 the treatment plant. Solids are removed in a
5 settling tank. We then go through a biological
6 process of activated sludge. The activated sludge
7 is then settled in the final clarifiers.

8 We then go through a filtration process
9 using dual media filtration. And then after the
10 dual media filtration process, the water is
11 disinfected with chlorine.

12 HEARING OFFICER CELLI: So, --

13 MR. MCPHEE: But the requirements of the
14 disinfected tertiary treated -- disinfected
15 tertiary recycled water is oxidation.

16 MR. LEWINGER: Mr. McPhee, that --

17 MR. MCPHEE: You didn't measure any
18 oxidation, did you?

19 MR. LEWINGER: Mr. McPhee, chlorination
20 is oxidation.

21 MR. MCPHEE: No, it is not. It's --

22 MR. LEWINGER: And --

23 MR. MCPHEE: -- it has to be oxidized --

24 HEARING OFFICER CELLI: Mr. McPhee, --

25 (Parties speaking simultaneously.)

1 MR. MCPHEE: -- a residual of oxygen --

2 MR. LEWINGER: Mr. McPhee, Mr. McPhee,
3 you're reading from a textbook. I go by what the
4 Regional Board requires us to do to meet our
5 permits and what they say we have to do to meet
6 Title 22. I don't refer to Metcalf and Eddy's
7 textbook to determine how my treatment plant needs
8 to operate to meet the law.

9 The Regional Water Quality Control Board
10 knows what Title 22 is all about. They set our
11 requirements. The Committee has a copy of permit
12 waste discharge order 91-39. That includes all of
13 the requirements that we must meet in order to
14 satisfy Title 22, which is the state code in
15 California, to be able to use recycled water for
16 various purposes.

17 We meet all of those requirements. It's
18 up to the Regional Board to decide what treatment
19 processes we have to follow, what level of
20 chlorination we provide and what the residual
21 chlorine has to be to meet their requirements. We
22 meet all the requirements of the Regional Water
23 Quality Control Board.

24 MR. MCPHEE: You do not. California --

25 HEARING OFFICER CELLI: And you --

1 MR. MCPHEE: Now, just a minute, let me
2 finish. California --

3 HEARING OFFICER CELLI: Mr. McPhee, let
4 me just say something that Mr. Lewinger is not a
5 witness who is under cross-examination.

6 MR. MCPHEE: Okay.

7 HEARING OFFICER CELLI: He's a commenter
8 who was gracious enough to allow me, and I
9 appreciate your responding to the questions --

10 MR. MCPHEE: Can I respond to the
11 oxidation requirements?

12 HEARING OFFICER CELLI: I just -- and,
13 yes, you may -- I just want to make the point that
14 I had the question with regard to the ammonia
15 because it was raised up in the record by you
16 earlier.

17 MR. MCPHEE: Um-hum, by me.

18 HEARING OFFICER CELLI: Yes. And while
19 I still have Mr. Lewinger here, you can make your
20 comments, too, if you wish, but I just wanted to
21 take advantage of the fact that he was here, let
22 him answer a couple of questions.

23 But I don't want him to be cross-
24 examined --

25 MR. MCPHEE: Okay.

1 HEARING OFFICER CELLI: -- cross-
2 examined, because he's not a witness. He's here
3 voluntarily as a contribution to these
4 proceedings.

5 And so if you have one more question,
6 and if it's acceptable to Mr. Lewinger, I think
7 that that would suffice.

8 MR. MCPHEE: It says here California
9 health laws related to recycled water, Title 22,
10 June 2001 edition. Disinfected secondary 2.2
11 recycled water means recycled water that has been
12 oxidized and disinfected. Disinfected secondary
13 23 recycled water means recycled water that's been
14 oxidized and disinfected.

15 Disinfected tertiary recycled water
16 means filtered and subsequently disinfected
17 wastewater. And over here it says filtered
18 wastewater means oxidized wastewater. And it
19 talks about oxidized wastewater.

20 And these are all out of the California
21 health laws related to recycled water, not Metcalf
22 and Eddy. And it says oxidized wastewater means
23 wastewater in which organic matter has been
24 stabilized in the nonputri --, which means it
25 doesn't stink anymore, and contains dissolved

1 oxygen.

2 There's nothing in your analysis here
3 that tells me that your wastewater contains
4 dissolved oxygen.

5 I'm reading directly out of the
6 California health laws related to recycled water
7 Title 22.

8 HEARING OFFICER CELLI: Mr. Lewinger,
9 please.

10 MR. LEWINGER: The Regional Water
11 Quality Control Board is the state agency that's
12 responsible for interpreting Title 22 and
13 specifying the treatment train that must be used
14 by all treatment plants to meet the requirements
15 in Title 22.

16 I don't make this stuff up. The
17 Regional Board has given us a document that's
18 probably a half an inch thick that tells us
19 exactly how we have to run our treatment plant;
20 what tests we have to run; what the limits are;
21 and what we can't go over and what we can't go
22 under.

23 We meet all the requirements in that
24 document that have been specified by the Regional
25 Water Quality Control Board in order to, in their

1 opinion, meet all the requirements of Title 22.
2 They are the regulatory agency. Not Mr. McPhee,
3 not Metcalf and Eddy, not me, not this
4 organization.

5 It's the Regional Water Quality Control
6 Board that has that responsibility. They dictated
7 that to us. We have not changed anything that
8 they have required of us. We meet all the
9 requirements of the Regional Water Quality Control
10 Board for our wastewater to be classified as fully
11 disinfected tertiary effluent.

12 HEARING OFFICER CELLI: Thank you very
13 much.

14 MR. LEWINGER: Thank you.

15 HEARING OFFICER CELLI: We really
16 appreciate your coming in today, and --

17 MR. LEWINGER: Good luck.

18 HEARING OFFICER CELLI: -- educating us
19 on this point. I don't have --

20 PRESIDING MEMBER BOYD: Let me ask Mr.
21 McPhee a question here. I mean I've been quite.
22 I've spent eight years of my long life in the
23 water business, too. And I've been here
24 recognizing that we're guided by the regulations
25 of the Regional Water Quality Control Board.

1 We have in our record now their order
2 number 91-39 and all the addenda thereto. This is
3 the governing law. This is the agency that
4 enforces the law.

5 I have to infer from what you've been
6 saying that maybe you don't think the Regional
7 Water Quality Control Board is following state
8 law?

9 MR. MCPHEE: I haven't seen any
10 publications from the Regional Water Quality
11 Control Board --

12 PRESIDING MEMBER BOYD: Have you ever --

13 MR. MCPHEE: -- but I certainly have
14 publications from the --

15 PRESIDING MEMBER BOYD: Have you ever
16 read --

17 MR. MCPHEE: -- California health laws
18 related to recycled water.

19 PRESIDING MEMBER BOYD: Are you familiar
20 with this order that's --

21 MR. MCPHEE: No, I'm not familiar with
22 it. But the law is California health laws related
23 to recycled water --

24 PRESIDING MEMBER BOYD: These are the
25 people who interpret --

1 MR. MCPHEE: -- not the Regional Water
2 Quality Control Board.

3 PRESIDING MEMBER BOYD: Oh, yes, they
4 have to interpret the law and put into place these
5 requirements --

6 MR. MCPHEE: Well, does he have any
7 indication -- did he present anything in
8 publication that would verify what he said? I
9 don't know, I haven't seen the Regional, but I do
10 have the California health laws. And it says
11 published codes are available on the internet.
12 They're also available in law libraries and your
13 county bar association for the nearest location.

14 So, all I'm doing is quoting what the
15 law actually states. If you want to look at that
16 handout that I gave you it'll state, you can see
17 in that handout that I gave you what I'm talking
18 about right now.

19 These --

20 PRESIDING MEMBER BOYD: I'm guided by
21 these documents here, which are from the Regional
22 Water Quality Control Board. It is their order
23 number 91-39 that applies specifically to this
24 plant. And they are the state agency charged with
25 interpreting state law and putting requirements

1 into their regulations. So, --

2 MR. McPHEE: Does it state anything
3 about oxidized or disinfection?

4 MR. BABULA: Page 3 of it says, this is
5 their -- do you have a copy of this?

6 HEARING OFFICER CELLI: This is exhibit
7 number 208 for the record.

8 MR. BABULA: I can read quickly. On
9 page 3 it says plant number 1 uses the following
10 treatment process. Prechlorination for odor
11 control, bar screens for coarse solid removal,
12 aerated grit tank removal, primary sedimentation,
13 interstage pumping, emergency overflow holding,
14 fine bubble aeration, activated sludge, secondary
15 sedimentation, secondary effluent equalization and
16 chlorine disinfection.

17 And then it goes to --

18 MR. McPHEE: -- biological treatments,
19 yeah. Right.

20 MR. BABULA: -- it goes to this
21 flocculation tank, rapid sand filters and then
22 chlorine disinfection again.

23 So this is -- the reason --

24 MR. McPHEE: Tertiary treatment --

25 (Parties speaking simultaneously.)

1 MR. BABULA: This order is supposed to
2 outline, as the prior person commented on, this is
3 sort of what they need to follow. So this was the
4 order they are under.

5 If your issue is that that's not
6 sufficient, then that would be something the
7 Regional Water Quality Control Board --

8 (Parties speaking simultaneously.)

9 MR. MCPHEE: -- it's not sufficient for
10 any --

11 MR. BABULA: -- that would be --

12 (Parties speaking simultaneously.)

13 HEARING OFFICER CELLI: The point, and
14 that's really the bottomline, that if you're not
15 satisfied with the existing laws or the way that
16 the laws are being interpreted by the Regional
17 Water Board, that that would be something that you
18 would need to take to the Regional Water Board,
19 themselves. Because they're the people who could
20 do something about it.

21 We, at this juncture, are just looking
22 to make sure that we are, you know, that this
23 power plant is going to be using tertiary recycled
24 water that is disinfected. And the law would
25 require that. We would be satisfied that the

1 power plant will operate in compliance with the
2 law. And we will have a compliance project
3 manager there to make sure that they are, in fact,
4 in compliance.

5 MR. McPHEE: I would like to know the
6 difference between what is actually being done and
7 what the California health laws related to
8 recycled water, and these are laws.

9 HEARING OFFICER CELLI: And that's
10 outside of my --

11 MR. McPHEE: They're requirements.

12 HEARING OFFICER CELLI: -- though.
13 That's a Regional Water Board issue, not a power
14 plant issue. So.

15 MR. McPHEE: Is the Regional Water
16 Quality Control Board saying that it doesn't have
17 to be oxidized?

18 HEARING OFFICER CELLI: That is doesn't
19 have to --

20 MR. McPHEE: Doesn't have to be
21 oxidized.

22 HEARING OFFICER CELLI: I don't know.
23 And that's not our -- we don't have to make that
24 decision as -- the Energy Commission doesn't have
25 to make a decision about how the Water Board

1 interprets and implements the laws.

2 But I would -- and I see now that you're
3 an effective advocate. I think that it would be
4 appropriate for you to take that question to the
5 Water Board if you wanted to follow up on that.
6 Because that would be helpful.

7 MR. MCPHEE: By the time I got an answer
8 back from them you guys will have already made
9 your decision.

10 HEARING OFFICER CELLI: Only this.
11 Let's just say that you discovered that the water
12 that they were using was improper or illegal or
13 didn't meet the specifications in our conditions,
14 then the CPM would have the right to shut down the
15 plant.

16 MR. MCPHEE: Well, you have made
17 conditions for the water, the recycled water, and
18 you have stated in your comments recycled water,
19 tertiary treated recycled water, tertiary treated
20 reclaimed water, reclaimed water, everything else
21 like that.

22 And you're so far all over the -- I mean
23 I can find at least 200 instances where you have
24 called -- you called it recycled water, reclaimed
25 water, --

1 (Parties speaking simultaneously.)

2 HEARING OFFICER CELLI: -- because I did
3 a find/change in my word processor and I looked
4 for reclaimed, and we don't have that word in
5 here.

6 MR. McPHEE: Reclaimed, reclaimed water
7 is what you --

8 HEARING OFFICER CELLI: That's correct.

9 MR. BABULA: No, we're using recycled,
10 it was staff that always had all recycled. It was
11 the applicant in some of their text that had
12 reclaimed. We had made it all consistent.

13 I want to point out quickly, which might
14 help you, soil and water-8 requires that the
15 applicant, when they're doing the water getting
16 analyzed, and that it follows Title 22, Title 17.

17 So, if, in the event, hypothetically
18 speaking, if Fallbrook's water doesn't meet the
19 safety standards, or doesn't meet Title 22, Title
20 17, then -- and you had to follow the Regional
21 Water Quality Board's stuff. And your feeling is
22 the Regional Board's process is incorrect, then
23 the water coming out, if it doesn't meet Title 17,
24 Title 22, soil and water-8 deals with that because
25 it requires that there be a report on the water

1 quality. And it has to meet soil and water-8.

2 And the verification must show the water
3 meets Title 22 and Title 17 before it can be used.
4 And so if the water doesn't meet the standards,
5 the health standards, which is your ultimate
6 concern is the water's safe --

7 MR. MCPHEE: Yes.

8 MR. BABULA: I think soil and water-8,
9 you should take a look at that and read soil and
10 water-8 --

11 MR. MCPHEE: Right. I don't want to
12 have myself sprayed with water. I don't want
13 anybody else to be sprayed with this reclaimed
14 water that causes health problems.

15 MR. BABULA: Right, and that's
16 understandable. And the other fact, remember this
17 is going into a -- this isn't going to be sprayed
18 around a golf course; this is going to be a
19 restricted area in a power plant.

20 MR. MCPHEE: Well, but you're
21 transporting it all through Fallbrook. And I go
22 down that Mission Road every day almost to go to
23 the grocery store. And I don't want to have that
24 stuff spraying on me, either.

25 MR. BABULA: Right.

1 HEARING OFFICER CELLI: We appreciate --

2 PRESIDING MEMBER BOYD: Mr. McPhee,
3 you're basically saying the Regional Water Board
4 is not doing its job.

5 MR. MCPHEE: I'm saying I can't make
6 that statement until I look at their --

7 (Parties speaking simultaneously.)

8 PRESIDING MEMBER BOYD: I'm going to
9 donate to you my exhibit here today to --

10 MR. MCPHEE: Okay.

11 PRESIDING MEMBER BOYD: -- take back and
12 study this, and compare it with what state law is.
13 And if you find a difference you should take that
14 concern to the Regional Board.

15 MR. MCPHEE: I should, yes, um-hum.

16 PRESIDING MEMBER BOYD: Indeed.

17 MR. MCPHEE: And I will, yes.

18 HEARING OFFICER CELLI: And with that I
19 want to keep us back on track --

20 MR. MCPHEE: Okay.

21 HEARING OFFICER CELLI: -- because this
22 is the public comment period now. I want to thank
23 you, though. I thought that that was a useful
24 discussion.

25 I did not collect any blue cards from

1 anybody who wanted to make a comment. Is there
2 anyone here who would like to make a comment on
3 the errata or anything having to do with the
4 Orange Grove Peaker Power Plant?

5 The record should reflect we have
6 probably 20 people here, nobody's raising their
7 hand, nobody's interested in making a comment.

8 I want to thank you for being here --

9 MR. MCPHEE: Does this include what
10 we've been talking about? Because I would like to
11 expand a little bit upon what I've been talking
12 about.

13 HEARING OFFICER CELLI: Well, --

14 MR. MCPHEE: Because until I see
15 something in writing that says it doesn't have to
16 be oxidized, then I have a valid complaint.

17 HEARING OFFICER CELLI: Well, what I --

18 MR. MCPHEE: What I'm doing is agreeing
19 with the law, the California health laws.

20 HEARING OFFICER CELLI: We appreciate
21 that. What I'm going to do is I'm going to let
22 you have the last word, Mr. McPhee.

23 (Laughter.)

24 HEARING OFFICER CELLI: You have the
25 floor.

1 MR. MCPHEE: Okay. What I'm complaining
2 about is the concerns of endangerment of
3 California workers and the general public as
4 previously identified in my correspondence to Mr.
5 Babula.

6 I'm talking about endangerment of the
7 health of Orange Grove Energy Power Plant workers
8 and others by permitting the use of tertiary
9 treated sewage water, also known as tertiary
10 treated reclaimed water, also known as tertiary
11 treated recycled water, also known as water code
12 recycled water instead of the lawfully required
13 disinfected tertiary recycled water.

14 And what I am requesting that in all
15 your documentations you specify disinfected
16 tertiary recycled water, which is oxygenated,
17 filtered, but with a either reverse osmosis,
18 nanofiltration or ultrafiltration, or just plain
19 filtration. Which includes detailed definitions
20 of disinfected recycled water uses.

21 And what I did in this documentation
22 here was identify the uses, the required uses of
23 disinfected tertiary -- of disinfected tertiary
24 recycled water.

25 And it says food crops including all

1 edible root crops where the recycled water comes
2 in contact with the edible portion of the root,
3 parks and playgrounds, schoolyards, residential
4 landscaping, unrestricted golf courses.

5 Now, residential landscaping and Mr.
6 Lewinger is telling me that his recycled water is
7 used for homeowners association irrigation. Now,
8 it says no recycled water use for irrigation; or
9 soil that has been irrigated with recycled water
10 shall come in contact with the edible portion of
11 food crops eaten raw by humans unless it's
12 disinfected tertiary recycled water.

13 Disinfected tertiary recycled water
14 shall be used for nonrestricted recreational
15 commons; recycled water used for industrial or
16 commercial cooling or air conditioning that
17 involved the use of cooling tower, evaporator,
18 condenser, spray or a mechanism that creates a
19 mist shall be disinfected tertiary recycled water.

20 And then, of course, that involves the
21 water used for cooling by the Orange Grove Power
22 Plant.

23 And disinfected recycled water shall,
24 not can, shall be used for flushing toilets and
25 urinals, -- industrial processed water that may

1 come in contact with workers. And that's what I'm
2 talking about. That's why I'm concerned about
3 health concerns.

4 Structural fire fighting, decorative
5 fountains, commercial laundries -- potable water
6 pipelines; artificial snowmaking for commercial
7 outdoor use. Commercial car washes, including
8 hand washes, if the recycled water is not heated,
9 and where the general public is excluded from the
10 washing process.

11 Disinfected tertiary disinfected
12 secondary 2.2 water is used for surface irrigation
13 of food crops where the edible portion is produced
14 above ground and not contacted by the recycled
15 water, shall be at least disinfected secondary 2.2
16 recycled water.

17 And for disinfected tertiary disinfected
18 secondary 2.3 recycled water can be used in
19 cemeteries, freeway landscaping, restricted golf
20 course access, ornamental nurseries, stock and sod
21 farms when accessed by the general public is not
22 restricted. Pastures for animals producing milk
23 for human consumption, any nonedible vegetation or
24 access is controlled so that the irrigated area
25 cannot be used as if it were part of a park or

1 playground or schoolyard. Note schoolyard.

2 Industrial boiler feed, nonstructural
3 fire fighting, backfill consolidation, nonpotable
4 water -- compaction mixing concrete, dust control
5 on roads and streets, cleaning roads, sidewalks
6 and outdoor areas. And industrial process water
7 that will not come in contact with workers.

8 And undisinfected secondary recycled
9 water, orchards where the recycled water does not
10 come in come in contact with the edible portion of
11 a crop; vineyards where the recycled water does
12 not come in contact with the edible portion of the
13 crop; nonfood-producing trees, such as Christmas
14 trees. If the recycled water occurs during a
15 period of 14 days prior to allowing the access to
16 the general public.

17 Fodder and fiber crops, pastures for
18 animals not producing milk for human consumption;
19 seed crops not eaten for humans; food crops that
20 must undergo commercial pathogen destroying before
21 becoming consumed by humans. Ornamental nursery
22 stock and sod far provided no irrigation occurs
23 within a period of 14 days prior to harvesting
24 retail and allowing and flushing sanitary sewers.

25 Every one of those, all four of those

1 recycled waters, have to be oxygenized. It states
2 right in the law. So, I'm not making it up.

3 HEARING OFFICER CELLI: So, --

4 MR. MCPHEE: It states right in the law.

5 HEARING OFFICER CELLI: So, the point is
6 that you want -- maybe I need you to make your
7 point, Mr. McPhee.

8 MR. MCPHEE: The point is that I want
9 every reference to recycled water in the Orange
10 Grove Power and the FPUD documents to state that
11 disinfected tertiary recycled water must be used.
12 That's my point.

13 HEARING OFFICER CELLI: Thank you. I
14 appreciate that. Is there any other comment -- we
15 have one more commenter, Mr. Lewinger, again,
16 please.

17 MR. LEWINGER: Mr. Chair, maybe to
18 simplify things, if you referenced in your order
19 that the recycled water must meet all the
20 requirements of Title 22 pursuant to the control
21 of the Regional Water Quality Control Board, that
22 might make everybody happy.

23 HEARING OFFICER CELLI: Well, let's put
24 it --

25 MR. MCPHEE: No. I would rather make it

1 a little different. I would rather specify
2 exactly because they have to use, according to the
3 law, they have to use disinfected tertiary
4 recycled water both for their cooling and if
5 they're going to replace the potable water with
6 disinfected tertiary -- with recycled water it
7 must be disinfected tertiary recycled water.

8 MR. BABULA: That's in -- let me just
9 read this line to you. Is this satisfactory? The
10 Orange Grove project shall comply with all
11 recycled water use requirements established in
12 Title 22 and Title 17 of the California Code of
13 Regulations --

14 MR. MCPHEE: Could you slow down,
15 please?

16 MR. BABULA: Okay. I'll read that
17 again. The Orange Grove project shall comply with
18 all recycled water use requirements established in
19 Title 22 and Title 17 of the California Code of
20 Regulations and any applicable local recycled
21 water use ordinance.

22 That is a condition of this project.
23 It's been a condition of this project since the
24 beginning. It's soil and water-8.

25 And then if you look at the

1 verification, reports are required to show what
2 the water is. And those reports get sent to the
3 Regional Water Quality Control Board.

4 HEARING OFFICER CELLI: So what we're
5 doing here, because we can't legislate --

6 MR. MCPHEE: No. No, no, but you can --
7 I'm not asking you to legislate. But what I'm
8 asking you, you see, there's four different types
9 of recycled water in Title 22.

10 HEARING OFFICER CELLI: Correct,
11 understood.

12 MR. MCPHEE: Why don't you just identify
13 the one that they have to use, which is
14 disinfected tertiary recycled water.

15 HEARING OFFICER CELLI: I believe that
16 that's what is included in the FSA.

17 MR. BABULA: Because their uses for --
18 or it's kind of -- I understand what you're
19 saying. They're using it for an industrial
20 process. Industrial process requires it to be
21 tertiary treated disinfected.

22 Because there are lower levels of
23 treatment that you can use --

24 MR. MCPHEE: That's right.

25 MR. BABULA: But for what they want to

1 use it for has to be the highest level.

2 MR. MCPHEE: Yes, --

3 MR. BABULA: Okay. And so that
4 requirement is in Title 22 and Title 17. If
5 you're going to us water for this process, then
6 you need to have the highest level. And that's
7 why we're saying you need to follow what Title 22
8 says.

9 You look there and it will say, well, if
10 you're going to use it for this type of process,
11 industrial process where there could be water
12 vapor, it needs to be the highest level of
13 disinfectant.

14 MR. MCPHEE: That's right.

15 MR. BABULA: So that's what soil and
16 water-8 is supposed to cover.

17 MR. MCPHEE: Yeah, but what I want is
18 something to eliminate any ambiguity and for you
19 to say disinfected tertiary recycled water is the
20 requirement for this. Because that's what it is.
21 It has to be disinfected tertiary recycled water.

22 HEARING OFFICER CELLI: And now Mr.
23 Lewinger is at the podium once again.

24 MR. LEWINGER: Yeah. And just to
25 support staff's comment, Title 22 changes from

1 time to time. The state of California can amend
2 Title 22.

3 I wouldn't think this Commission wants
4 to specify some language that's buried within
5 Title 22 right now with the fear that in ten years
6 possibly disinfected tertiary effluent won't be
7 good enough for the use that we're proposing to
8 use it for, and Title 22 will change. And some
9 higher level of treatment may be required.

10 So you're running the risk, if you use
11 the terminology disinfected tertiary effluent in
12 your order, and then Title 22 changes at some
13 future date, your order is going to be not in
14 compliance with Title 22.

15 The best way to do it is to reference,
16 as your staff has recommended, reference Title 22
17 and identify, you know, we have to meet the
18 applicable standards for this use as identified in
19 Title 22 of the Regional Water Quality Control
20 Board.

21 That way, if Title 22 ever becomes more
22 stringent we're going to have to meet those more
23 stringent treatment requirements in order to
24 continue this use.

25 If you specify disinfected tertiary

1 effluent and 15 years from now the Regional Boards
2 and the State Board say, no, to have this type of
3 use you got to go through RO.

4 Well, your order's not going to say RO.
5 Your order is going to say disinfected tertiary
6 effluent. Whereas if you simply reference Title
7 22 and Title 22 changes to require RO, then we
8 would have to use RO to meet the requirement.

9 The Regional Board and the State Board
10 are the appropriate agencies to sway what type of
11 treatment is required for various uses.

12 Thank you.

13 HEARING OFFICER CELLI: Thank you very
14 much.

15 MS. LUCKHARDT: And I'd just like to
16 clarify. I believe that RO stands for reverse
17 osmosis?

18 MR. LEWINGER: Yes.

19 HEARING OFFICER CELLI: Yes. Thank you.
20 I want to thank you, again, Mr. Lewinger. We
21 appreciate your comments.

22 Mr. McPhee, I want to thank you for your
23 comments. I want to thank all the people who
24 showed up today for your participation in this
25 process. I see a lot of familiar faces in the

1 time that we've been doing this.

2 And at this time I'm now going to hand
3 over the --

4 MR. MCPHEE: I'd like to reply to Mr.
5 Lewinger's last comments. The fact that
6 disinfected tertiary recycled water is almost as
7 pure as potable water, and I don't think it's
8 possible to improve the quality of that water.

9 And that's why I -- I don't know why
10 he's fighting it because that's why I want and I'm
11 asking, and I'm requesting that they use the
12 correct lawful term called disinfected tertiary
13 recycled water.

14 HEARING OFFICER CELLI: Thank you. Loud
15 and clear.

16 At this time I'm going to hand the
17 meeting over to Commissioner Boyd, who's our
18 Presiding Member, to adjourn.

19 PRESIDING MEMBER BOYD: Well, thank you.
20 And, Mr. McPhee, I do thank you for your concern
21 for the public's health.

22 MR. MCPHEE: It is a health issue.

23 PRESIDING MEMBER BOYD: Right. I've
24 been engaged in that occupation for most of my
25 four decades in government. So even though we may

1 disagree on the application, we do appreciate your
2 concern and your taking your time.

3 If there's no other business before us
4 today, let me thank you all. I'm not sure we'll
5 ever see most of you again down here. But it's a
6 pleasant setting, in any event.

7 And this meeting is adjourned.

8 HEARING OFFICER CELLI: I did want to
9 make one more point, by the way, I'm sorry I
10 forgot to mention that the PMPD will be up before
11 the full Commission, the Energy Commission, at the
12 business meeting on Wednesday, April 8th.

13 Thank you.

14 MS. LUCKHARDT: And just so folks know,
15 we didn't know that this would go as quickly as it
16 has gone this morning. So there is lunch coming.

17 (Whereupon, at 11:53 a.m., the hearing/
18 conference was adjourned.)

19 --o0o--
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CERTIFICATE OF REPORTER

I, TROY A. RAY, an Electronic Reporter,
do hereby certify that I am a disinterested person
herein; that I recorded the foregoing California
Energy Commission Hearing/Conference; that it was
thereafter transcribed into typewriting.

I further certify that I am not of
counsel or attorney for any of the parties to said
hearing, nor in any way interested in outcome of
said hearing.

IN WITNESS WHEREOF, I have hereunto set
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